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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE MAGNAVOX COMPANY, a
Corporation, and SANDERS
ASSOCIATES, INC., a
Corporation,

Plaintiffs,

v.

BALLY MANUFACTURING
CORPORATION, a Corporation,
CHICAGO DYNAMIC INDUSTRIES,
INC., a Corporation,
EMPIRE DISTRIBUTING, INC.,
a Corporation, and MIDWAY
MFG. CO., a Corporation,

Defendants.

Civil Action
No. 74 C 1030

PLAINTIFFS' RESPONSES TO FIRST
INTERROGATORIES TO PLAINTIFFS
BY DEFENDANT CHICAGO DYNAMIC
INDUSTRIES, INC.

Plaintiffs, the Magnavox Company and Sanders Associates, Inc. (hereinafter "Magnavox" and "Sanders", respectively), through their undersigned attorneys and agents, hereby respond to Interrogatories 1-96 served upon them on June 24, 1974 by defendant Chicago Dynamic Industries, Inc. (hereinafter "defendant") under the title "First Interrogatories To Plaintiffs by Defendant Chicago Dynamic Industries, Inc." The answers supplied are based on information obtained from those employees of plaintiffs having knowledge of the relevant facts or the knowledge of plaintiffs' attorneys.

In responding to certain ones of the interrogatories, plaintiffs have elected, pursuant to Rule 33(c) of the Federal Rules of Civil Procedure, to produce for inspection by defendant the documents required to obtain the requested information. The documents to be produced are referred to hereinafter as the "produced documents". The produced documents will be made available for inspection by defendant during reasonable business hours and by appointment at a time mutually convenient to plaintiffs, defendant, and their attorneys. Those of the produced documents in the possession of Magnavox shall be made available for inspection in the Magnavox offices at 1700 Magnavox Way, Ft. Wayne, Indiana, and those of the produced documents in the possession of Sanders shall be made available for inspection in the Sanders offices at Daniel Webster Highway, South, Nashua, New Hampshire.

1. Specifically and separately identify each and every document and agreement under which the rights in the alleged invention described and shown in Patent No. 3,659,284 have been assigned to anyone, and separately state the following with regard to each such document and agreement:

- (a) the effective date thereof;
- (b) the date of execution thereof;
- (c) the names of the parties thereto;
- (d) the names of the signatories thereto;
- (e) the name and address of each person having a copy thereof in his possession or custody or control, and with respect to each such person and each such document

indicate whether the document is
executed and whether he has possession,
custody, or control;

(f) the exact wording thereof of the document.

RESPONSE:

Plaintiffs object to paragraph (e) of this interrogatory as requesting information which is neither relevant to either the subject matter involved or any issue in this action nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs further object to paragraph (e) of this interrogatory as placing them under an undue and unnecessary burden to supply the requested information. Plaintiffs will, however, in response to paragraph (f) of this interrogatory permit defendant to inspect the documents and agreements requested to be identified.

- A. (a) December 2, 1957.
- (b) December 2, 1957.
- (c) William T. Rusch and Sanders.
- (d) William T. Rusch.
- (f) See the produced documents.

- B. (a) May 21, 1969.
- (b) May 21, 1969.
- (c) William T. Rusch and Sanders.
- (d) William T. Rusch.
- (f) See the produced documents.

2. Specifically and separately identify each and every document and agreement under which the rights in the alleged invention described and shown in Patent No. 3,659,285 have been assigned to anyone, and separately state the following with regard to each such document and agreement:

- (a) the effective date thereof;
- (b) the date of execution thereof;
- (c) the names of the parties thereto;
- (d) the names of the signatories thereto;
- (e) the name and address of each person having a copy thereof in his possession or custody or control, and with respect to each such person and each such document, indicate whether the document is executed and whether he has possession, custody, or control;
- (f) the exact wording thereof of the document.

RESPONSE:

Plaintiffs object to paragraph (e) of this interrogatory for the same reasons as are stated herein with respect to paragraph (e) of interrogatory 1.

- A. (a) August 3, 1959.
- (b) August 3, 1959.
- (c) Ralph H. Baer and Sanders.
- (d) Ralph H. Baer.
- (f) See the produced documents.

- B. (a) May 16, 1957.
(b) May 16, 1957.
(c) William L. Harrison and Sanders.
(d) William L. Harrison.
(f) See the produced documents.
- C. (a) December 2, 1957.
(b) December 2, 1957.
(c) William T. Rusch and Sanders.
(d) William T. Rusch.
(f) See the produced documents.
- D. (a) August 18, 1969.
(b) August 18, 1969.
(c) Ralph H. Baer, William T. Rusch and William L. Harrison.
(d) Ralph H. Baer, William T. Rusch and William L. Harrison.
(f) See the produced documents.

3. Specifically and separately identify each and every document and agreement under which the rights in the alleged invention described and shown in Patent No. 3,659,284 have been licensed to anyone, and separately state the following with regard to each such document and agreement;

- (a) the effective date thereof;
(b) the date of execution thereof;

- (c) the names of the parties thereto;
- (d) the names of the signatories thereto;
- (e) the name and address of each person having a copy thereof in his possession or custody or control, and with respect to each such person and each such document, indicate whether the document is executed and whether he has possession, custody, or control;
- (f) the exact wording thereof of the document.

RESPONSE:

Plaintiffs object to paragraph (e) of this interrogatory for the same reasons as are stated herein with respect to paragraph (e) of interrogatory 1.

Plaintiffs object to paragraph (f) of this interrogatory on the ground that portions of the wording of the documents requested to be identified contain information which is confidential to plaintiffs and is neither relevant to either the subject matter involved or any issue in this action nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs will, however, permit defendant to inspect a copy of each document and agreement requested to be identified with said confidential and irrelevant information expurgated therefrom.

- A. (a) March 3, 1971.
- (b) March 11, 1971.
- (c) Magnavox and Sanders.
- (d) J. W. Schrey and Daniel Chisholm.

- B. (a) January 27, 1972.
(b) February 2, 1972.
(c) Magnavox and Sanders.
(d) S. J. Rozel and John A. Melrose.
- C. (a) August 1, 1972.
(b) August 1, 1972.
(c) Magnavox and Sanders.
(d) R. T. Seeger and Louis Etlinger.

4. Specifically and separately identify each and every document and agreement under which the rights in the alleged invention described and shown in Patent No. 3,659,285 have been licensed to anyone, and separately state the following with regard to each such document and agreement:

- (a) the effective date thereof;
(b) the date of execution thereof;
(c) the names of the parties thereto;
(d) the names of the signatories thereto;
(e) the name and address of each person having a copy thereof in his possession or custody or control, and with respect to each such person and each such document, indicate whether the document is executed and whether he has possession, custody, or control;
(f) the exact wording thereof of the document.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 3.

5. As to the defendant Chicago Dynamic Industries, Inc.

- (a) identify each gaming apparatus made, used or sold by said defendant which plaintiffs charge to be an infringement of Patent No. 3,659,284;
- (b) for each gaming apparatus identified in answer to Interrogatory 5(a), state specifically each and every claim of Patent No. 3,659,284 which plaintiffs charge to be infringed.

RESPONSE:

Plaintiffs are presently unable to provide a complete response to interrogatories 5 and 6 as defendant has not yet supplied them with the identification of each video game that defendant has made, used, or sold nor any information concerning the construction or operation thereof. Plaintiffs will supply herein the requested information as it is best able to determine it, but reserve the right to add additional apparatus and additional claims as their discovery in this action progresses.

(a) Olympic TV Hockey

TV Ping Pong

TV Tennis

TV Soccer

(b) As to each apparatus, claims 25, 44, 45, 51, 54, 55, and 57

6. As to the defendant Chicago Dynamic Industries, Inc.

- (a) identify each gaming apparatus made, used or sold by said defendant which plaintiffs charge to be an infringement of Patent No. 3,659,285;
- (b) for each gaming apparatus identified in answer to Interrogatory 6(a), state specifically each and every claim of Patent No. 3,659,285 which plaintiffs charge to be infringed.

RESPONSE:

See the response stated herein to interrogatory 5.

- (a) Olympic TV Hockey

TV Ping Pong

TV Tennis

TV Soccer

- (b) As to each apparatus, claims 2 and 6

7. Under what circumstances did plaintiffs first learn that defendant Chicago Dynamic Industries, Inc. made, used, or sold a gaming apparatus which is alleged by plaintiffs to infringe Patent No. 3,659,284? In reply, give names and addresses, dates, and places, as well as other relevant circumstances.

RESPONSE:

Plaintiffs object to this interrogatory as it places each plaintiff under an undue and unnecessary burden to supply the requested information. In particular, to supply that information would require each of the plaintiffs to canvass each of its officers, directors, managing agents and employees to

ascertain whether each of those persons has knowledge that defendant made, used, or sold a gaming apparatus now alleged by plaintiffs to infringe said patent and, if so, when that person first obtained such knowledge and under what circumstances. However, in order to expedite the resolution of this action, plaintiffs hereinafter supply the requested information with respect to those persons associated with each plaintiff primarily involved in activities relating to the maintenance of this action.

Magnavox first learned that defendant made, used, or sold a gaming apparatus now alleged to infringe said patent during the course of a meeting between patent counsel for Magnavox, Magnetic Corporation of America, and Williams Electronics. Magnavox was represented by Thomas A. Briody and Magnetic Corporation of America and Williams Electronics were represented by Melvin A. Goldenberg. The meeting was held on June 12, 1973 at the offices of McDougall, Hersh & Scott, Room 1540, 135 South La Salle Street, Chicago, Illinois.

Sanders first learned that defendant made, used or sold a gaming apparatus now alleged to infringe said patent when Ralph H. Baer attended the Music Operators of America Exhibit at the Conrad Hilton Hotel, Chicago, Illinois on November 9-11, 1973.

8. Under what circumstances did plaintiffs first learn that defendant Chicago Dynamic Industries, Inc. made, used, or sold a gaming apparatus which is alleged by plaintiffs to infringe Patent No. 3,659,285? In reply, give names and addresses, dates, and places, as well as other relevant circumstances.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 7.

9. Under what circumstances did plaintiffs first learn of the exact construction of the accused gaming apparatus of defendant Chicago Dynamic Industries, Inc.? In reply, give names, addresses, dates, and places, as well as other relevant circumstances.

RESPONSE:

Plaintiff objects to this interrogatory for reasons similar to those stated with respect to interrogatory 7. However, plaintiffs supply the following information in response thereto in order to advance the prosecution of this action. Those persons associated with each plaintiff primarily involved in activities relating to the maintenance of this action do not at this time know the exact construction of defendant's accused apparatus.

10. For each gaming apparatus identified in answer to Interrogatories 5(a) and 6(a), separately state whether plaintiffs have

- (a) come into possession of such gaming apparatus, and identify each company and individual from whom plaintiffs obtained that gaming apparatus and the date on which that gaming apparatus was obtained and the name and address of each individual who received or obtained such gaming apparatus;
- (b) physically examined the interior of such gaming apparatus, and the names of all persons present at each such examination and the date on which such examination occurred;
- (c) operated such gaming apparatus mentioned and give the names of all persons present at each such operation and the date on which such operation occurred.

RESPONSE:

Plaintiffs object to parts (b) and (c) of this interrogatory for reasons similar to those stated with respect to interrogatory 7. However, plaintiffs supply the following information in response to this interrogatory in order to advance the prosecution of this action.

- (a) Neither plaintiff has possession of any such gaming apparatus.
- (b) Ralph H. Baer examined the interior of at least one of defendant's gaming apparatus during the course of the Music Operators of America Exhibit referred to herein in the response to interrogatory 7.

(c) Ralph H. Baer, Thomas A. Briody and Robert Fritsche operated and/or observed the operation of defendant's "TV Tennis" and "TV Hockey" games during the course of the Music Operators of America Exhibit referred to herein in the response to interrogatory 7.

11. For each gaming apparatus identified in answer to Interrogatories 5(a), 6(a) and 10, state whether records or other writings were made respecting the obtaining thereof, or the results of such examination or operation, and if so, identify the records and writings by date and by every other identification of which the plaintiffs have knowledge, and state the names and addresses of those who have possessed copies of such records or writings and who have possession thereof now.

RESPONSE:

Records were made regarding the examination, operation or observations referenced in the response herein to paragraphs (b) and (c) of interrogatory 10. Plaintiffs will produce for inspection by plaintiff copies of the portions of these records relating to said examination, operations or observations.

Plaintiffs object to this interrogatory insofar as it requests the identification of those who have possessed or now possess copies of such records as requesting information which is neither relevant to either the subject matter involved or any issue in this action nor reasonably calculated to lead to the discovery of admissible evidence and as placing plaintiffs under an undue and unnecessary burden to supply the requested information.

12. If one or more gaming apparatus is identified by plaintiffs in answer to Interrogatories 5(a) and 6(a), separately state as to each such gaming apparatus whether the charge of infringement is made upon information other than that specified in the answer to Interrogatory 10, and if so, describe and fully identify the kind and source of such other information, and when and from whom such information was obtained by plaintiffs.

RESPONSE:

The charge of infringement is made upon no other information.

13. Give the name and address of each person, firm, or corporation, if any, that plaintiffs have informed of the instant action against defendant Chicago Dynamic Industries, Inc.

RESPONSE:

Plaintiffs object to this interrogatory as requesting information which is neither relevant to either the subject matter involved or any issue in this action nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs further object to this interrogatory as placing them under an undue and unnecessary burden to supply the requested information. In particular, to supply that information would require each of the plaintiffs to canvass each of its officers, directors, managing agents and employees to ascertain the identity of any person, firm or corporation, if any, which those persons have informed of the instant action against defendant. However, in order to advance the resolution of this action, plaintiffs hereinafter supply the

requested information based on the knowledge of those persons associated with each plaintiff primarily involved in activities relating to the maintenance of this action.

Sanders has informed no person, firm or corporation of the instant action.

Magnavox issued a press release relating to the filing of the instant action. That release was sent to the Wall Street Journal, The New York Times, Forbes Magazine and Home Furnishings Daily, among others. Magnavox also informed the following persons, firms or corporations of the instant action:

Mr. Dimitri Allegretti
Molinare, Allegretti, Newitt & Witcoff
1400 La Salle Bank Building
135 South La Salle Street
Chicago, Illinois 60603

Mr. Richard C. Martin
Brookes & Martin
1 Boyne Park, Tunbridge Wells
Kent TN4 8EL
England

Alca Electronics, Ltd.
Alca House
Goddard Street
Oldham OL 8 1LQ
Lancashire
England

Coughtrey's Automatic Supplies Limited
Auto House, Derby Road
Triumph Road, Lenton
Nottingham
England

London Coin Machines, Ltd.
22-24 Bromells Road
London SW4 OBQ
England

Associated Leisure Sales, Ltd.
Phonographic House
The Vale
London NW118SU
England

Coin Concession Ltd.
213 Longley Road
London SW17
England

Atari (U. K.) Ltd.
29A Draycott Road
Breaston, Derbyshire
England

14. Identify every technical, legal, and patent expert whom plaintiffs or anyone acting on behalf of plaintiffs have consulted or by whom plaintiffs or anyone acting on behalf of plaintiffs have been advised with respect to whether or not defendant Chicago Dynamic Industries, Inc. has infringed Patent No. 3,659,284, and state the address of each, the nature of his employment, the nature of the relevant services each performed, and the dates of each consultation or advise or service.

RESPONSE:

Sanders - No one.

Magnavox - Theodore W. Anderson, James T. Williams and Neuman, Williams, Anderson & Olson, 77 West Washington Street, Chicago, Illinois; patent counsel; consideration of patents and infringement thereof; continuously from approximately November, 1973 until the present.

15. Identify all memoranda and other documents or records which have been prepared by employees or agents of plaintiffs to other employees or agents of plaintiffs or to other persons, concerning the gaming apparatus of Chicago Dynamic Industries, Inc., defendant herein, which is alleged to infringe Patent 3,659,284.

RESPONSE:

A. Certain of the documents which plaintiff has offered to produce in response to interrogatory 11.

B. July 3, 1973, letter from Thomas A. Briody to Chicago Coin Machine Company.

C. July 20, 1973, letter from Thomas A. Briody to Edward C. Threedy.

D. September 6, 1973, letter from Thomas A. Briody to Edward C. Threedy.

E. December 4, 1973, memorandum from Thomas A. Briody to R. E. Wiles and R. E. Fritsche.

F. February 22, 1974, letter from Thomas A. Briody to Edward C. Threedy.

G. April 9, 1974, letter from Thomas A. Briody to Edward C. Threedy.

16. Identify every technical legal, and patent expert whom plaintiffs or anyone acting on behalf of plaintiffs have consulted or by whom plaintiffs or anyone acting on behalf of plaintiffs have been advised with respect to whether or not defendant Chicago Dynamic Industries, Inc. has infringed Patent 3,659,285, and state the address of each, the nature of his employment, the nature of the relevant services each performed, and the dates of each consultation or advice or service.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 14.

17. Identify all memoranda and other documents and records which have been prepared by employees or agents of plaintiffs to other employees or agents of plaintiffs or to other persons, concerning the gaming apparatus of defendant Chicago Dynamic Industries, Inc. which is alleged to infringe Patent No. 3,659,285.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 15.

18. As to each drawing and/or circuit diagram of the alleged invention of Patent 3,659,284 made prior to May 27, 1969, separately state:

- (a) the identification thereof;
- (b) the date it was made;
- (c) the place where it was made;
- (d) the name and address of each person who prepared or assisted in the preparation thereof;

- (e) the name and address of any other person who was present when it was made;
- (f) the present location of the drawing or circuit diagram and each copy thereof;
- (g) the name and address of the person who has possession or custody of the drawing or circuit diagram and each such copy.

RESPONSE:

Plaintiffs object to this interrogatory as placing them under an undue and unnecessary burden to supply the information requested in each of paragraphs (a)-(g) as to each document requested to be identified. However, in order to advance the resolution of this action, plaintiffs offer to produce for inspection by defendant each of the documents requested to be identified relevant to the development of the invention of said patent. Plaintiffs will then consider supplying the requested information as to individual ones of those documents requested by defendant.

19. As to each drawing and/or circuit diagram of the alleged invention of Patent 3,659,285 made prior to August 21, 1969, separately state:

- (a) the identification thereof;
- (b) the date it was made;
- (c) the place where it was made;
- (d) the name and address of each person who prepared or assisted in the preparation thereof;
- (e) the name and address of any other person who was present when it was made;

- (f) the present location of the drawing or circuit diagram and each copy thereof;
- (g) the name and address of the person who has possession or custody of the drawing or circuit diagram and each such copy.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 18.

20. Identify each and every written description that has been prepared prior to May 27, 1969 of the alleged invention of Patent 3,659,284 by separately stating:

- (a) the title or other means of identification thereof;
- (b) the date it was written;
- (c) the place where it was written;
- (d) the name and address of the person or persons who prepared or assisted in the preparation of the description.
- (e) whether the written description still exists;
- (f) the present location of each copy of the description;
- (g) the name and address of the person who has had possession or custody of the description.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 18.

21. Identify each and every written description that has been prepared prior to August 21, 1969 of the alleged invention of Patent 3,659,285 by separately stating:

- (a) the title or other means of identification thereof;
- (b) the date it was written;
- (c) the place where it was written;
- (d) the name and address of the person or persons who prepared or assisted in the preparation of the description;
- (e) whether the written description still exists;
- (f) the present location of each copy of the description;
- (g) the name and address of the person who has had possession or custody of the description.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 18.

22. What persons have seen each of the written descriptions mentioned in answer to Interrogatory No. 20, what are their last known addresses, and when did they see such descriptions?

RESPONSE:

Plaintiffs object to this interrogatory for reasons similar to those stated with respect to interrogatory 18. Plaintiffs further object to this interrogatory as it is unlimited as to time.

23. What persons have seen each of the written descriptions mentioned in answer to Interrogatory No. 21, what are their last known addresses, and when did they see such descriptions?

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 22.

24. Were the drawings of Patent 3,659,284 made from one or more devices or apparatuses, other than a drawing?

RESPONSE:

Some of the drawings were made from sketches of apparatus.

25. Were the drawings of Patent 3,659,285 made from one or more devices or apparatuses, other than a drawing?

RESPONSE:

Some of the drawings were made from sketches of apparatus.

26. If the answer to Interrogatory 24 is "Yes":

- (a) state who now possesses such device or devices;
- (b) give the name and address of the person who made such device or devices or apparatus;
- (c) state the date when said device or devices or apparatus were made;

- (d) state whether plaintiffs have in their possession or under their control, a drawing or drawings of such device, devices or apparatus, other than the drawings of the patent in suit;
- (e) if the answer to Interrogatory 26(d) is in the affirmative, who has possession of each such drawing?
- (f) give the name and address of the person who made the drawings of the device or devices referred to in Interrogatory 26(d);
- (g) give the date when the drawings of the device or devices referred to in Interrogatory 26(d) were made.

RESPONSE:

- (a) Sanders.
- (b) William L. Harrison
95 Canal Street
Nashua, New Hampshire
- (c) On or before December 22, 1967.
- (d)-(g) All such drawings are included in the

response to interrogatory 18.

27. If the answer to Interrogatory 25 is "Yes":

- (a) state who now possesses such device or devices;
- (b) give the name and address of the person who made such device or devices or apparatus;
- (c) state the date when said device or devices or apparatus were made;
- (d) state whether plaintiffs have in their possession or under their control, a drawing

or drawings of such device, devices or apparatus, other than the drawings of Patent 3,659,285;

- (e) if the answer to Interrogatory 27(d) is in the affirmative, who has possession of each such drawing?
- (f) give the name and address of the person who made the drawings of the device or devices referred to in Interrogatory 27(d);
- (g) give the date when the drawings of the device or devices referred to in Interrogatory 27(d) were made.

RESPONSE:

- (a) Sanders.
- (b) William L. Harrison
95 Canal Street
Nashua, New Hampshire
- (c) On or before October 24, 1968.
- (d)-(g) All such drawings are included in the

response to interrogatory 19.

28. Do plaintiffs have a drawing or drawings or circuit diagrams of the apparatus manufactured by either of the plaintiffs under Patent 3,659,284?

RESPONSE:

Yes.

29. If the answer to Interrogatory 28 is "Yes," separately state:

- (a) the name and address of the person who prepared it;
- (b) the date of its preparation;

- (c) the name and address of the person who has possession or custody of such drawing.

RESPONSE:

- (a) Jim Menninger
The Magnavox Company
1700 Magnavox Way
Ft. Wayne, Indiana
- (b) February 19, 1973.
- (c) John Slusarski
The Magnavox Company
1700 Magnavox Way
Ft. Wayne, Indiana

30. Do plaintiffs have a drawing or drawings or circuit diagrams of the apparatus manufactured by either of plaintiffs under Patent 3,659,285?

RESPONSE:

Yes.

31. If the answer to Interrogatory 30 is "Yes," separately state:

- (a) the name and address of the person who prepared it;
- (b) the date of its preparation;
- (c) the name and address of the person who has possession or custody of such drawing.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 29.

32. State fully the circumstances and acts which led to or which otherwise involved the conception, development, and testing of the apparatus shown and described in Patent 3,659,284, and with respect to each act, separately state:

- (a) the date of the act;
- (b) the description of the act;
- (c) the place where it occurred;
- (d) the name and address of each person who was present;
- (e) the description of each document, drawing, diagram, model, written description, or other tangible evidence that might corroborate the occurrence of such act;
- (f) the name and address of the person who has possession of each such item of evidence described in answer to Interrogatory 32(e);
- (g) whether such act will be relied upon by plaintiffs as evidence of conception, diligence, or reduction to practice.

RESPONSE:

Plaintiffs object to this interrogatory as requesting information which is neither relevant to either the subject matter involved or any issues now in this action nor reasonably calculated to lead to the discovery of admissible evidence. In particular, the information requested in this interrogatory relates to the conception, development or testing of the apparatus shown in said patent. Plaintiffs presently have no knowledge of any prior art relevant to said patent which would cause them to rely on a date of invention prior to the filing date thereof.

Plaintiffs further object to this interrogatory as placing them under an undue and unnecessary burden to supply

the information requested in parts (a)-(g) thereof as to each act of conception, testing and development.

However, in order to advance the resolution of this action, plaintiffs offer to produce for inspection by defendant the documentary evidence relating to the conception, development and testing of the apparatus shown and described in said patent.

33. Identify the act or acts identified in the answer to Interrogatory 32 which will be relied upon to establish the first conception of the alleged invention of Patent 3,659,284.

RESPONSE:

Plaintiffs object to this interrogatory for the reasons stated herein in the first paragraph of the response to interrogatory 32.

34. Identify the act or acts identified in the answer to Interrogatory 32 which will be relied upon to establish the first actual reduction to practice of the alleged invention of Patent 3,659,284.

RESPONSE:

Plaintiffs object to this interrogatory for the reasons stated herein in the first paragraph of the response to interrogatory 32.

35. State fully the circumstances and acts which led to or which otherwise involved the conception, development,

and testing of the apparatus shown and described in Patent 3,659,285, and with respect to each act, separately state:

- (a) the date of the act;
- (b) the description of the act;
- (c) the place where it occurred;
- (d) the name and address of each person who was present;
- (e) the description of each document, drawing, diagram, model, written description, or other tangible evidence that might corroborate the occurrence of such act;
- (f) the name and address of the person who has possession of each such item of evidence described in answer to Interrogatory 33(e);
- (g) whether such act will be relied upon by plaintiffs as evidence of conception, diligence, or reduction to practice.

RESPONSE:

The response to this interrogatory is the same as that stated herein with respect to interrogatory 32.

36. Identify the act or acts identified in the answer to Interrogatory 35 which will be relied upon to establish the first conception of the alleged invention of Patent 3,659,285.

RESPONSE:

Plaintiffs object to this interrogatory for the reasons stated herein in the first paragraph of the response to interrogatory 32.

37. Identify the act or acts identified in the answer to Interrogatory 35 which will be relied upon to establish the first actual reduction to practice of the alleged invention of Patent 3,659,285.

RESPONSE:

Plaintiffs object to this interrogatory for the reasons stated herein in the first paragraph of the response to interrogatory 32.

38. As to each drawing identified in the answer to Interrogatory 18 which no longer exists, state who has any recollection thereof and what his recollection is.

RESPONSE:

Plaintiffs object to this interrogatory as requesting information which is neither relevant to either the subject matter involved or any issue now in this action nor reasonably calculated to lead to the discovery of admissible evidence. In particular, plaintiffs have no present intention of relying upon any drawing which is not presently in existence to prove a date of invention.

39. As to each drawing identified in the answer to Interrogatory 19 which no longer exists, state who has any recollection thereof and what his recollection is.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 38.

40. State who was aware of the work done by William T. Rusch at the time he was first developing the alleged invention shown in Patent 3,659,284, and with respect to each such person separately state:

- (a) his name and last known address;
- (b) when he became aware of the work being done;
- (c) the extent of his knowledge of the work done;
- (d) the circumstances under which that person became aware of the work being done.

RESPONSE:

The following persons are those other than the inventor who were most aware of said work:

- A. (a) Ralph H. Baer
 Sanders Associates, Inc.
 Merrimack, New Hampshire
- (b) Throughout its progress.
- (c) Detailed knowledge.
- (d) Baer was Rusch's supervisor during the time the work was being done.
- B. (a) William L. Harrison
 Sanders Associates, Inc.
 95 Canal Street
 Nashua, New Hampshire
- (b) Throughout its progress.
- (c) Detailed knowledge.
- (d) Harrison built apparatus embodying the invention.

- C. (a) H. C. Chapman
Sanders Associates, Inc.
Daniel Webster Highway, South
Nashua, New Hampshire
- (b) Throughout its progress.
- (c) General knowledge.
- (d) Chapman was responsible for funding of the development work.
- D. (a) Louis Etlinger
Sanders Associates, Inc.
Daniel Webster Highway, South
Nashua, New Hampshire
- (b) Throughout its progress.
- (c) General knowledge.
- (d) Etlinger was Sanders' patent counsel when the work was being performed.

41. State who was aware of the work done by Ralph H. Baer, William T. Rusch, and William L. Harrison at the time they were first developing the alleged invention shown in Patent 3,659,285, and with respect to each such person being so aware, separately state:

- (a) his name and last known address;
- (b) when he became aware of the work done;
- (c) the extent of his knowledge of the work done;
- (d) the circumstances under which that person became aware of the work being done.

RESPONSE:

The following persons are those other than the inventors who were most aware of said work:

- A. (a) H. C. Chapman
Sanders Associates, Inc.
Daniel Webster Highway, South
Nashua, New Hampshire
- (b) Throughout its progress.
- (c) General knowledge.
- (d) Chapman was responsible for funding
of the development work.
- B. (a) Louis Etlinger
Sanders Associates, Inc.
Daniel Webster Highway, South
Nashua, New Hampshire
- (b) Throughout its progress.
- (c) General knowledge.
- (d) Etlinger was Sanders' patent counsel
when the work was being performed.

42. What are the present addresses of Ralph H. Baer,
William T. Rusch, and William L. Harrison?

RESPONSE:

Ralph H. Baer
Sanders Associates, Inc.
Merrimack, New Hampshire

William T. Rusch
Sanders Associates, Inc.
Simon Street
Nashua, New Hampshire

William L. Harrison
Sanders Associates, Inc.
95 Canal Street
Nashua, New Hampshire

43. What is the date on which the alleged invention of Patent 3,659,284 was first disclosed to another person by plaintiffs or either of them, or by someone employed by plaintiffs or either of them, prior to May 27, 1969?

RESPONSE:

Apparatus including the invention of Patent 3,659,284 was first disclosed by Sanders to a person not associated with Sanders on January 18, 1968.

44. With respect to each disclosure identified in answer to Interrogatory 43, separately state:

- (a) the place where such disclosure occurred;
- (b) the name and address of each person to whom the disclosure was made;
- (c) how the disclosure was made, identifying all documents, models, drawings, or other aids used to explain the invention;
- (d) the name and address of the person who has the possession or custody of each document, model, drawing, or other aid identified in answer to Interrogatory 44(c).

RESPONSE:

- (a) 95 Canal Street
Nashua, New Hampshire
- (b) Hubert J. Schlafley
Teleprompter Corporation
50 West 44th Street
New York, New York
- (c) Demonstration of model in confidence.
- (c) Ralph H. Baer
Sanders Associates, Inc.
Merrimack, New Hampshire

45. What is the date on which the alleged invention of Patent 3,659,285 was first disclosed to another person by plaintiffs or either of them, or by someone employed by plaintiffs or either of them, prior to August 21, 1969?

RESPONSE:

Apparatus including the invention of Patent 3,659,285 was first disclosed by Sanders to a person not associated with Sanders on January 14, 1969.

46. With respect to each disclosure identified in answer to Interrogatory 45, separately state:

- (a) the place where such disclosure occurred;
- (b) the name and address of each person to whom the disclosure was made;
- (c) how the disclosure was made, identifying all documents, models, drawings, or other aids used to explain the invention;
- (d) the name and address of the person who has the possession or custody of each document, model, drawing, or other aid identified in answer to Interrogatory 46(c).

RESPONSE:

(a) 95 Canal Street
Nashua, New Hampshire

(b) Eugene M. Whitacre
RCA Corporation
Princeton, New Jersey

Keith J. Ackley
RCA Sales Corporation
600 North Sherman Drive
Indianapolis, Indiana

Ken B. Gould
RCA Corporation
Address Unknown

Mr. Leyton
RCA Corporation
Address Unknown

- (c) Demonstration of model in confidence
- (d) Ralph H. Baer
Sanders Associates, Inc.
Merrimack, New Hampshire

47. What are the dates of use of the apparatus shown and described in Patent 3,659,284, on or before May 27, 1969? With respect to each such use, separately state:

- (a) when it occurred;
- (b) where it occurred;
- (c) who was present.

RESPONSE:

Plaintiffs object to this interrogatory as being vague and indefinite and, in particular, object to this interrogatory on the ground that the definition of the term "use" as appears therein is unclear. However, in order to advance the resolution of this action, plaintiffs supply the following information. If the term "use" is taken as meaning a "public use" as that term is used in 35 U.S.C. § 102(b), there were no such use prior to the date referred to.

48. What are the dates of use prior to August 21, 1969 of the apparatus shown and described in Patent 3,659,285, and of the method therein described? With respect to each such use, separately state:

- (a) when it occurred;
- (b) where it occurred;
- (c) who was present.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 47.

49. On what dates prior to May 27, 1969 were apparatuses of the type shown and described in Patent 3,659,284 discussed with or disclosed to anyone other than an employee of plaintiffs, and with respect to each such discussion and each such disclosure, separately state:

- (a) when it occurred;
- (b) where it occurred;
- (c) who was present;
- (d) the substance thereof;
- (e) the purpose thereof.

RESPONSE:

- A. (a) January 18, 1968
- (b) 95 Canal Street, Nashua, New Hampshire
- (c) Hubert J. Schlafley, Teleprompter Corporation and Sanders personnel
- (d) Demonstration of model in confidence

- (e) Licensing of invention
- B. (a) January 24, 1968
- (b) 95 Canal Street, Nashua, New Hampshire
- (c) Harold W. Solomon, Merrimack Valley CATV,
and Sanders personnel
- (d) Demonstration of model in confidence
- (e) Licensing of invention
- C. (a) February 12, 1968
- (b) 95 Canal Street, Nashua, New Hampshire
- (c) Joseph P. Whelton, Merrimack Valley CATV,
and Sanders personnel
- (d) Demonstration of model in confidence
- (e) Licensing of invention
- D. (a) February 13, 1968
- (b) 95 Canal Street, Nashua, New Hampshire
- (c) Irving Kahn, Teleprompter Corporation,
and Sanders personnel
- (d) Demonstration of model in confidence
- (e) Licensing of invention
- E. (a) February 19, 1968
- (b) 50 West 44th Street, New York
- (c) Irving Kahn, Hubert J. Schlafley, and
Rodger Wilson, Teleprompter Corporation,
and Sanders personnel

- (d) Demonstration of model in confidence
- (e) Licensing of invention
- F. (a) January 14, 1969
- (b) 95 Canal Street, Nashua, New Hampshire
- (c) Eugene M. Whitacre, Keith J. Ackley,
Ken Gould, and Mr. Leyton,
RCA Corporation, and Sanders
personnel
- (d) Demonstration of model in confidence
- (e) Licensing of invention
- G. (a) March 12, 1969
- (b) 95 Canal Street, Nashua, New Hampshire
- (c) Francis H. Boos, Jr., B.J. Smith, A. Stauffer,
Ralph Czerlinsky, and Richard C. Kimm,
General Electric Company, and Sanders
Personnel
- (d) Demonstration of model in confidence
- (e) Licensing of invention
- H. (a) March 18, 1969
- (b) 95 Canal Street, Nashua, New Hampshire
- (c) Felix Millikin and C. Bailey Neal,
Sylvania Electric Products Inc., and
Sanders personnel
- (d) Demonstration of model in confidence
- (e) Licensing of invention

- I. (a) March 10, 1969
- (b) 95 Canal Street, Nashua, New Hampshire
- (c) Charles Heuer, Zenith Radio Corporation,
 and Sanders personnel
- (d) Demonstration of model in confidence
- (e) Licensing of invention
- J. (a) April 2, 1969
- (b) 95 Canal Street, Nashua, New Hampshire
- (c) Keith J. Ackley and C. Lance Marshall, Jr.,
 RCA Corporation, and Sanders personnel
- (d) Demonstration of model in confidence
- (e) Licensing of invention
- K. (a) May 7, 1969
- (b) 95 Canal Street, Nashua, New Hampshire
- (c) Irving Gilman, Institute for Analytical
 Research, Peekskill, New York,
 E.J. Zirkle and Phil E. Perchanok,
 General Electric Company and Sanders
 personnel
- (d) Demonstration of model in confidence
- (e) Licensing of invention

50. On what dates prior to August 21, 1969 were apparatuses and methods of the type shown and described in Patent 3,659,285 discussed with or disclosed to anyone other than an employee of plaintiffs, and with respect to each such discussion and each such disclosure, separately state:

- (a) when it occurred;
- (b) where it occurred;
- (c) who was present;
- (d) the substance thereof;
- (e) the purpose thereof.

RESPONSE:

The response to this interrogatory is the same as entries F-K of the response stated herein to interrogatory 49 and the following:

- A.
 - (a) May 28, 1969
 - (b) Hampton, Virginia
 - (c) E.J. Zirkle, Phil E. Perchanok, Francis H. Boos, Jr., and other General Electric personnel, Irving Gilman, Institute for Analytical Research, and Sanders Personnel
 - (d) Demonstration of model in confidence
 - (e) Licensing of invention
- B.
 - (a) May 29, 1969
 - (b) 95 Canal Street, Nashua, New Hampshire
 - (c) R.L. Mason, Motorola, and Sanders personnel
 - (d) Demonstration of model in confidence
 - (e) Licensing of invention.

51. State the name and address of the purchaser of each apparatus of the type shown and described in Patent 3,659,284 which was delivered by plaintiffs or anyone else prior to May 27, 1969, and with respect to each such delivery, separately state:

- (a) who was involved in the delivery and the address of each and the name of his employer, if any, at the time;
- (b) where the delivery occurred;
- (c) when the delivery occurred;
- (d) the identity of the apparatus delivered.

RESPONSE:

There were no such purchasers.

52. State the name and address of the purchaser of each apparatus of the type embodying the alleged invention shown and described in Patent 3,659,285 which was delivered by plaintiffs or anyone else prior to August 21, 1969, and with respect to each such delivery, separately state:

- (a) who was involved in the delivery and the address of each and the name of his employer, if any, at the time;
- (b) where the delivery occurred;
- (c) when the delivery occurred;
- (d) the identity of the apparatus delivered.

RESPONSE:

There were no such purchasers.

53. When did plaintiffs first solicit an order for the sale of the apparatus shown in Patent 3,659,284?

RESPONSE:

May, 1972.

54. When did plaintiffs first solicit an order for the sale of the apparatus shown in Patent 3,659,285?

RESPONSE:

May, 1972.

55. When did plaintiffs first receive an order for the apparatus shown in Patent 3,659,284?

RESPONSE:

May, 1972.

56. When did plaintiffs first receive an order for the apparatus shown in Patent 3,659,285?

RESPONSE:

May, 1972.

57. When did plaintiffs first show to anyone else a model of the apparatus shown in Patent 3,659,284?

RESPONSE:

An apparatus of the type disclosed in Patent 3,659,284 was first shown by Sanders to a person not associated with Sanders on January 18, 1968.

58. When did plaintiffs first show to anyone else a model of the apparatus shown in Patent 3,659,285?

RESPONSE:

An apparatus of the type disclosed in Patent 3,659,285 was first shown by Sanders to a person not associated with Sanders on January 14, 1969.

59. With regard to each publication and distribution prior to May 27, 1969 of written information describing or illustrating the alleged invention of Patent No. 3,659,284, separately state:

- (a) when such publication or distribution occurred;
- (b) where it occurred;
- (c) the date thereof;
- (d) the name and address of the author thereof;
- (e) describe the written information.

RESPONSE:

Plaintiffs made no such publication and distribution prior to May 27, 1969.

60. With regard to each publication and distribution prior to August 21, 1969 of written information describing or illustrating the alleged invention of Patent No. 3,659,285, separately state:

- (a) when such publication or distribution occurred;

- (b) where it occurred;
- (c) the date thereof;
- (d) the name and address of the author thereof;
- (e) describe the written information.

RESPONSE:

Plaintiffs made no such publication and distribution prior to August 21, 1969.

61. Have plaintiffs ever prepared, transmitted, or received or were there ever prepared, transmitted, or received on their behalf, any documents such as letters, memoranda, reports or opinions relevant to the question of the validity of Patent 3,659,284?

RESPONSE:

Yes.

62. If the answer to Interrogatory 61 is "Yes," for each such document separately state:

- (a) its date;
- (b) the name and address and business of the individual, firm, or corporation who prepared it;
- (c) whether plaintiffs will contend that the document is privileged;
- (d) the opinion expressed if plaintiffs admit that the document is not privileged;
- (e) the name and address of the person who has possession or custody of each copy thereof.

RESPONSE:

- A. (a) November 4, 1971
- (b) Jeffers & Rickert
610 Indiana Bank Building
Fort Wayne, Indiana 46802
- (c) No
- (d) It is a listing of patents found during a search
- (e) Thomas A. Briody
The Magnavox Company
1700 Magnavox Way
Fort Wayne, Indiana 46804
- B. (a) July 28, 1972
- (b) Frank C. Maley
Suite 703, Crystal Mall 1
1911 Jefferson Davis Highway
Arlington, Virginia 22202
- (c) No
- (d) It is a listing of patents found during a search
- (e) Thomas A. Briody
The Magnavox Company
1700 Magnavox Way
Fort Wayne, Indiana 46804
- C. (a) August 3, 1972
- (b) Jeffers & Rickert
610 Indiana Bank Building
Fort Wayne, Indiana 46802
- (c) Yes
- (d) No response required
- (e) Thomas A. Briody
The Magnavox Company
1700 Magnavox Way
Fort Wayne, Indiana 46804

- D. (a) August 4, 1972
- (b) Frank C. Maley
Suite 703, Crystal Mall 1
1911 Jefferson Davis Highway
Arlington, Virginia
- (c) No
- (d) It is a listing of patents found during
a search
- (e) Thomas A. Briody
The Magnavox Company
1700 Magnavox Way
Fort Wayne, Indiana 46804
- E. (a) August 10, 1972
- (b) Jeffers & Rickert
610 Indiana Bank Building
Fort Wayne, Indiana 46802
- (c) Yes
- (d) No response required
- (e) Thomas A. Briody
The Magnavox Company
1700 Magnavox Way
Fort Wayne, Indiana 46804

63. Have plaintiffs ever prepared, transmitted, or received or were there ever prepared, transmitted, or received on their behalf, any documents such as letters, memoranda, reports or opinions relevant to the question of the validity of Patent 3,659,285?

RESPONSE:

Yes.

64. If the answer to Interrogatory 63 is "Yes," for each such document separately state:

- (a) its date;
- (b) the name and address and business of the individual, firm, or corporation who prepared it;
- (c) whether plaintiffs will contend that the document is privileged;
- (d) the opinion expressed if plaintiffs admit that the document is not privileged;
- (e) the name and address of the person who has possession or custody of each copy thereof.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 62.

65. Have plaintiffs conducted or had conducted on their behalf any investigation of or search of the prior art or other source of information respecting the alleged invention described and shown in Patent 3,659,284? If so, with respect to each such investigation and search, separately state:

- (a) the name, address, and present position of each such person;
- (b) the purpose of the investigation or search and the manner in which it was conducted;
- (c) when the investigation was initiated and when completed;
- (d) the full identity of each patent, report, and other correspondence, publication, and writing, and each and every other type of information which came to the attention of plaintiffs or their respective attorneys as a result of such investigation or search.

RESPONSE:

Yes.

- A. (a) Rodger M. Rickert
Jeffers & Rickert
610 Indiana Bank Building
Fort Wayne, Indiana 46802
- (b) Prior art patent search
- (c) Initiation date -- unknown
Completion date -- November 4, 1971
- (d) See Exhibit A attached hereto
- B. (a) Frank C. Maley
1911 Jefferson Davis Highway
Arlington, Virginia
- (b) Prior art patent search
- (c) Initiation date -- unknown
Completion date -- July 28, 1972
- (d) United States Patents
- | | |
|-----------|-----------|
| 2,188,145 | 3,560,644 |
| 3,329,948 | 3,582,544 |
| 3,479,454 | 3,614,766 |
| 3,483,302 | |
- C. (a) Frank C. Maley
1911 Jefferson Davis Highway
Arlington, Virginia
- (b) Prior art patent search
- (c) Initiation date -- unknown
Completion date -- August 4, 1972
- (d) United States Patents
- | | |
|-----------|-----------|
| 2,978,540 | 2,938,949 |
| 3,019,289 | 3,604,849 |
| 3,404,222 | 3,617,630 |

- D. (a) Rodger M. Rickert
Jeffers & Rickert
610 Indiana Bank Building
Fort Wayne, Indiana 46802
- (b) Provision of composite list of prior art patents
- (c) Initiation date -- unknown
Completion date -- August 10, 1972
- (d) See Exhibit B attached hereto

66. Have plaintiffs conducted or had conducted on their behalf any investigation of or search of the prior art or other source of information respecting the alleged invention described and shown in Patent 3,659,285? If so, with respect to each such investigation and search, separately state:

- (a) the name, address, and present position of each such person;
- (b) the purpose of the investigation or search and the manner in which it was conducted;
- (c) when the investigation was initiated and when completed;
- (d) the full identity of each patent, report, and other correspondence, publication, and writing, and each and every other type of information which came to the attention of plaintiffs or their respective attorneys as a result of such investigation or search.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 65.

67. State whether plaintiffs have had any discussion or correspondence with other persons, other than an attorney for plaintiffs, relating in any way to Patent 3,659,284.

RESPONSE:

Plaintiffs object to interrogatories 67-70 as being vague and indefinite. In particular, the phrases "relating in any way" to patents 3,659,284 and 3,659,285 appearing in interrogatories 67 and 69 are unclear and leave the scope of interrogatories 67-70 undefined. It is not clear whether defendant intends that the discussions or correspondence referred to should include only those making specific reference to the patents by number or should also include discussions and correspondence relating to the general subject matter of the patents either before or after the patents issued, discussions and correspondence relating to the applications which matured into the patents, discussions and correspondence relating to the invention of the patents and their development, and so forth.

Plaintiffs also object to interrogatories 67-70 as being overly broad and placing them under an undue and unnecessary burden to supply the requested information. To supply the information required by this interrogatory would require that each plaintiff canvass each of its officers, directors, managing agents and employees to determine whether

each of those persons have had any discussions "relating in any way" to patents 3,659,284 and 3,659,285 and, if so, to supply the detailed information requested in paragraphs (a)-(c) of interrogatories 68 and 70. Merely the discussions between the plaintiffs relating to the patents or apparatus manufactured under the patents could well be very extensive. Furthermore, it should be noted that these interrogatories contain no limitation as to the time periods to be covered thereby.

68. If the answer to Interrogatory 67 is "Yes":

- (a) state the full name, present address and position of each person who participated in such discussion or correspondence, and describe the extent of such participation and where it occurred;
- (b) fully identify and describe in detail the contents of all documents in plaintiffs' custody or control which refer in any way to the aforesaid discussions or correspondence; and
- (c) state the name and present address and position of each person who has custody of each of said documents.

RESPONSE:

See the response stated herein to interrogatory 67.

69. State whether plaintiffs have had any discussion or correspondence with other persons, other than an attorney for plaintiffs, relating in any way to Patent 3,659,285.

RESPONSE:

See the response stated herein to interrogatory 67.

70. If the answer to Interrogatory 69 is "Yes":

- (a) state the full name, present address and position of each person who participated in such discussion or correspondence, and describe the extent of such participation and where it occurred;
- (b) fully identify and describe in detail the contents of all documents in plaintiffs' custody or control which refer in any way to the aforesaid discussions or correspondence; and
- (c) state the name and present address and position of each person who has custody of each of said documents.

RESPONSE:

See the response stated herein to interrogatory 67.

71. Has there been prepared on plaintiffs' behalf, or have plaintiffs ever prepared, any document relevant to the question of the scope of any claim in Patent 3,659,284?

RESPONSE:

Yes.

72. If the answer to Interrogatory 71 is "Yes," for each such document separately state:

- (a) the claim involved;
- (b) the name, address, and business of each individual who prepared it;
- (c) the date of the document;
- (d) whether plaintiffs will contend that the document is privileged;
- (e) the opinion or conclusion reached, if plaintiffs will not contend that it is privileged;
- (f) the name and address of the person who has possession or custody of such document or a copy thereof.

RESPONSE:

The only documents prepared by plaintiffs or on plaintiffs' behalf "relevant to the question of the scope of any claim in Patent 3,659,284" are the application for that patent and the papers filed in the United States Patent Office in that application. Since those documents are a matter of public record, the information requested as to them in this interrogatory need not be supplied.

73. Has there been prepared on plaintiffs' behalf, or have plaintiffs ever prepared, any document relevant to the question of the scope of any claim in Patent 3,659,285?

RESPONSE:

Yes.

74. If the answer to Interrogatory 73 is "Yes," for each such document separately state:

- (a) the claim involved;
- (b) the name, address, and business of each individual who prepared it;
- (c) the date of the document;
- (d) whether plaintiffs will contend that the document is privileged;
- (e) the opinion or conclusion reached, if plaintiffs will not contend that it is privileged;
- (f) the name and address of the person who has possession or custody of such document or a copy thereof.

RESPONSE:

The only documents prepared by plaintiffs or on plaintiffs' behalf "relevant to the question of the scope of any claim in Patent 3,659,285" are the application for that patent and the papers filed in the United States Patent Office in that application. Since those documents are a matter of public record, the information requested as to them in this interrogatory need not be supplied.

75. Was the alleged invention of Patent 3,659,284 made in the performance of a research or development contract?

RESPONSE:

No.

76. Was the alleged invention of Patent 3,659,285 made in the performance of a research or development contract?

RESPONSE:

No.

77. Do plaintiffs own or have rights under any United States or foreign patents or patent applications which show or describe the features of the apparatus shown in Patent No. 3,659,284?

RESPONSE:

Plaintiffs object to interrogatories 77-80, 83 and 84 as being vague and indefinite. In particular, the phrases "the features of the apparatus shown in" Patents 3,659,284 or 3,659,285 are unclear; plaintiffs are unable to determine what defendant intends to include as those "features" and, thus, are unable to supply the requested information. However, in order to advance the resolution of this action, plaintiffs supply the following information.

If defendant seeks the identity of United States or foreign patents or patent applications, whether or not owned by plaintiffs, disclosing the inventions claimed in Patents 3,659,284 and 3,659,285, which are prior art thereto, plaintiffs have knowledge of no such patents or patents applications. If defendant seeks the identity of all prior art known to plaintiffs which might be considered relevant to Patents 3,659,284 and/or 3,659,285, all the references obtained by plaintiffs as a result of the patent searches made on behalf of plaintiffs are identified

herein in the response to interrogatory 65. In addition, plaintiffs have knowledge of the following references:

- A. U.S. patent 2,492,447
- B. U.S. patent 2,455,992
- C. U.S. patent 2,784,247
- D. U.S. patent 3,046,676
- E. U.S. patent 3,014,724
- F. U.S. patent 3,207,842
- G. U.S. patent 3,271,032
- H. U.S. patent 3,583,538
- I. U.S. patent 2,838,848
- J. U.S. patent 2,889,635
- K. U.S. patent 2,988,821
- L. U.S. patent 3,007,257
- M. U.S. patent 3,149,195
- N. U.S. patent 3,060,596
- O. U.S. patent 3,169,162
- P. U.S. patent 3,317,783
- Q. U.S. patent RE 25,756
- R. U.S. patent 2,559,388
- S. U.S. patent 2,580,083
- T. U.S. patent 2,998,193
- U. U.S. patent 3,320,595
- V. U.S. patent 3,331,069
- W. U.S. patent 3,333,147

- X. U.S. patent 3,329,948
- Y. U.S. patent 3,011,164
- Z. U.S. patent 2,489,883
- AA. U.S. patent 2,552,022
- BB. U.S. patent 2,648,724
- CC. U.S. patent 2,956,116
- DD. U.S. patent 3,151,248
- EE. U.S. patent 3,401,331
- FF. U.S. patent 2,621,246
- GG. British patent 633,424
- HH. Dutch patent application 69,04775
- II. Dutch patent application 70,07591
- JJ. French patent 1,180,470
- KK. Swedish patent application 3520/69
- LL. "Funk und Ton", 1954, No. 4, pages 179-186
(printed publication)
- MM. "OKI DENKI GIHO", Vol. 34, No. 1, pages 80-82
(printed publication)
- NN. prior knowledge of "televised game of cricket"

78. If the answer to Interrogatory 77 is in the affirmative, identify any such patent or patents, and identify each such patent application by serial number, filing date, title, inventor, and general subject matter, and indicate the status of the application.

RESPONSE:

See the response stated herein to interrogatory 77.

79. Do plaintiffs own or have rights under any United States or foreign patents or patent applications which show or describe the features of the apparatus and/or method shown and described in Patent No. 3,659,285?

RESPONSE:

See the response stated herein to interrogatory 77.

80. If the answer to Interrogatory 79 is in the affirmative, identify any such patent or patents, and identify each such patent application by serial number, filing date, title, inventor, and general subject matter, and indicate the status of the application.

RESPONSE:

See the response stated herein to interrogatory 77.

81. Identify all patents and patent applications which plaintiffs, its agents or its predecessors have filed or caused to be filed on any alleged improvement on or in the apparatus shown or described in Patent 3,659,284.

RESPONSE:

A. United States Serial No. 365,000, filed May 29, 1973 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

B. United States Serial No. 445,022, filed February 22, 1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

C. Australian Serial No. 68922, filed May 14, 1972 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

D. Belgium Serial No. 0/144829, filed May 28, 1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

E. Canadian Serial No. 201026, filed May 28, 1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

F. British Serial No. 23712/74, filed May 29, 1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

G. French Serial No. 74 18382, filed May 28, 1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

H. German Serial No. P 24 26 249.5, filed May 29, 1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

I. Dutch Serial No. 74.06530, filed May 15, 1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

J. Israel Serial No. 44575, filed May 4, 1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

K. Italian Serial No. 23194A/74, filed May 24, 1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

L. Japanese Serial No. 61424/74, filed May 29, 1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

M. Swedish Serial No. 74-07044-2, filed May 28,

1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

N. Swiss Serial No. 7340/74, filed May 28, 1974 for "Preprogrammed Television Gaming System" by Ralph H. Baer.

O. United States Serial No. 298,313 filed October 17, 1972 for "Cathode Ray Tube Overlay Arrangement" by George A. Kent.

P. United States Serial No. 295,389 filed October 5, 1972 for "Novel Switch Interconnect" by Gordon H. Allison and Clarence V. Graef.

Q. United States Serial No. 298,312 filed October 17, 1972 for "Two Axis, Dual Control Coordinator" by Gordon Allison.

R. United States Patent 3,809,395 issued May 7, 1974 for "Television Control Game" by Gordon Allison and Clarence Graef.

S. United States Serial No. 346,212 filed March 29, 1973 for "Oscillator Device Having Remote Radiation-Free Switch Means" by George A. Kent.

T. United States Serial No. 320,244 filed January 2, 1973 for "Control For A Television Electronic Game" by G. L. McMahon and J. B. VanDyke.

U. United States Serial No. 320,359 filed January 2, 1973 for "Control Console for a TV Electronic Game" by G. L. McMahon and J. B. VanDyke.

82. Identify all patents and patent applications which plaintiffs, their agents or their predecessors have filed or caused to be filed on any alleged improvement on or in the apparatus and/or method shown or described in Patent 3,659,285.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 81.

83. Identify each and every patent and patent application known to plaintiffs or to their predecessors in interest which disclose or describe or illustrate the features of the apparatus shown in Patent 3,659,284, and with respect to each identified patent, give the country in which it was issued, the name of the patentee, date of issuance, and the patent number.

RESPONSE:

See the response stated herein to interrogatory 77.

84. Identify each and every patent and patent application known to plaintiffs or to their predecessors in interest which disclose or describe or illustrate the features of the apparatus and/or method shown and described in Patent 3,659,285, and with respect to each identified patent, give the country in which it was issued, the name of the patentee, date of issuance, and the patent number.

RESPONSE:

See the response stated herein to interrogatory 77.

85. To the extent not previously answered and including the issued patents and trade literature, identify each and every document, correspondence, memorandum, drawing, sketch, description, photograph or the like in plaintiffs'

possession or control, relating or in any way referring to defendant's apparatus identified in answer to Interrogatory 5(a) and/or to Patent 3,659,284, and with respect to each, state the present location and custody of the original or copy thereof.

RESPONSE:

Plaintiff objects to interrogatories 85 and 86 as being vague and indefinite and as being overly broad and placing plaintiffs under an undue and unnecessary burden to supply the requested information. The particular grounds in support of these objections are similar to those stated herein in the response to interrogatory 67.

86. To the extent not previously answered and including the issued patents and trade literature, identify each and every document, correspondence, memorandum, drawing, sketch, description, photograph or the like in plaintiffs' possession or control, relating to or in any way referring to defendant's apparatus identified in answer to Interrogatory 6(a) and/or to Patent 3,659,285, and with respect to each, state the present location and custody of the original or copy thereof.

RESPONSE:

See the response stated herein to interrogatory 85.

87. What prior art disclosing or having features set forth in the claims of Patent 3,659,284 is now known to plaintiffs or their attorneys that was not disclosed to the United States Patent Office in writing as indicated in the file history of the application therefor, Serial No. 828,154? With respect to each such prior art, indicate whether it is in the form of a printed publication, a patent, prior knowledge, or a public use, and with respect to each, give sufficient information to enable identification of such prior art.

RESPONSE:

Plaintiffs object to interrogatories 87 and 88 for the same reasons as are stated herein in the first paragraph of the response to interrogatory 77. Further, plaintiffs have previously provided herein the identification of all references known to them which might be considered relevant to Patents 3,659,284 and 3,659,285. Defendant may make its own determination as to whether each one of those references discloses or has "features set forth in the claims" of Patents 3,659,284 and 3,659,285 and whether those references were disclosed to the Patent Office in writing during the prosecution of the relevant applications.

88. What prior art disclosing or having features set forth in the claims of Patent 3,659,285 is now known to plaintiffs or their attorneys that was not disclosed to the United States Patent Office in writing as indicated in the file history of the application therefor, Serial No. 851,865? With respect to each such prior art, indicate whether it is in the form of a printed publication, a patent, prior knowledge, or a public use, and with respect to each, give sufficient information to enable identification of such prior art.

RESPONSE:

See the response stated herein to interrogatory 87.

89. Set forth and separately identify each and every new or improved result that plaintiffs will contend has been obtained with the alleged invention covered by the claims of Patent 3,659,284, and identify the closest prior art known to plaintiffs or their attorneys or both which does not achieve each of said results respectively.

RESPONSE:

The said new and improved results are set forth in the specification and claims of Patent 3,659,284. Plaintiffs have previously provided herein the identification of all references known to them which might be considered relevant to Patent 3,659,284. Defendant may make its own determination of the closest prior art which does not achieve the said results.

90. Set forth and separately identify each and every new or improved result that plaintiffs will contend has been obtained with the alleged invention covered by the claims of Patent 3,659,285, and identify the closest prior art known to plaintiffs or their attorneys or both which does not achieve each of said results respectively.

RESPONSE:

The said new and improved results are set forth in the specification and claims of Patent 3,659,285. Plaintiffs have previously provided herein the identification of all references known to them which might be considered relevant to Patent 3,659,285. Defendant may make its own determination of the closest prior art which does not achieve the said results.

91. Set forth and separately identify each and every new or improved advantage that plaintiffs will contend has been obtained with the alleged invention covered by the claims of Patent 3,659,284, and identify the closest prior art known to plaintiffs or their attorneys or both which does not achieve each of said advantages respectively.

RESPONSE:

The said new and improved advantages are set forth in the specification and claims of Patent 3,659,284. Plaintiffs have previously provided herein the identification of all references known to them which might be considered relevant to Patent 3,659,284. Defendant may make its own determination of the closest prior art which does not achieve the said advantages.

92. Set forth and separately identify each and every new or improved advantage that plaintiffs will contend has been obtained with the alleged invention covered by the claims of Patent 3,659,285, and identify the closest prior art known to plaintiffs or their attorneys or both which does not achieve each of said advantages respectively.

RESPONSE:

The said new and improved advantages are set forth in the specification and claims of Patent 3,659,285. Plaintiffs have previously provided herein the identification of all references known to them which might be considered relevant to Patent 3,659,285. Defendant may make its own determination of the closest prior art which does not achieve the said advantages.

93. Prior to the issuance on April 25, 1972 of Patent 3,659,284, did plaintiffs or the patentee conduct or have conducted a patent search bearing on the patentability of the apparatus shown, described, and claimed in Patent 3,659,284?

RESPONSE:

Prior to April 25, 1972, a patent search was conducted which might be said to bear on the patentability of the apparatus shown, described, and claimed in Patents 3,659,284 and 3,659,285.

94. Prior to the issuance on April 25, 1972 of Patent 3,659,285, did plaintiffs or the patentees conduct or have conducted a patent search bearing on the patentability of the apparatus and method shown, described, and claimed in Patent 3,659,285?

RESPONSE:

See the response stated herein to interrogatory 93.

95. If the answer to Interrogatory 93 is in the affirmative:

- (a) state what patent office classifications were searched;
- (b) identify by name, date and number any and all patents and publications found in such search;
- (c) identify each person who made a search or otherwise furnished information to plaintiffs or their attorneys bearing on

the patentability of the claims filed in the application that led to Patent 3,659,284, and with respect to each such person, give his name, address and how much time he spent in finding the prior art.

RESPONSE:

(a) Plaintiffs have no knowledge of what Patent Office classifications were searched

(b) See Exhibit A attached hereto

(c) Murphy & Dobyns
2001 Jefferson Davis Highway
Arlington, Virginia

Plaintiffs have no knowledge of what persons conducted the search or how much time was spent thereon.

96. If the answer to Interrogatory 94 is in the affirmative:

- (a) state what patent office classifications were searched;
- (b) identify by name, date and number any and all patents and publications found in such search;
- (c) identify each person who made a search or otherwise furnished information to plaintiffs or their attorneys bearing on the patentability of the claims filed in the application that led to Patent 3,659,285, and with respect to each such person, give his name, address, and how much time he spent in finding the prior art.

RESPONSE:

The response to this interrogatory is the same as that stated herein to interrogatory 95.

August 28, 1974

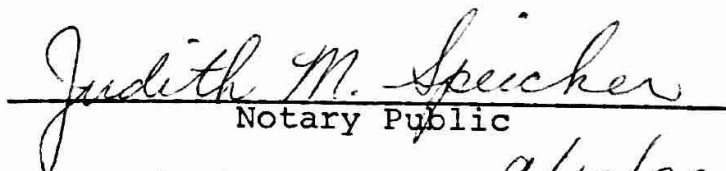
Chicago, Illinois



Theodore W. Anderson

NEUMAN, WILLIAMS, ANDERSON & OLSON
Attorneys for Plaintiffs
77 West Washington Street
Chicago, Illinois 60602
(312) 346-1200

Subscribed and sworn to before me this 28th day of August, 1974, in Chicago, Illinois.


Notary Public

My Commission expires: 9/17/77

The foregoing objections and contentions are asserted or stated on behalf of plaintiffs by:


Theodore W. Anderson

NEUMAN, WILLIAMS, ANDERSON & OLSON
Attorneys for Plaintiffs
77 West Washington Street
Chicago, Illinois 60602
(312) 346-1200

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing PLAINTIFFS' RESPONSES TO FIRST INTERROGATORIES TO PLAINTIFF BY DEFENDANT CHICAGO DYNAMIC INDUSTRIES, INC. was served upon Donald L. Welsh, attorney for Bally Manufacturing Corporation, Empire Distributing, Inc. and Midway Mfg. Co., and upon Edward C. Threedy, attorney for Chicago Dynamic Industries, Inc. by mailing a copy thereof to them at their respective addresses of record by first-class mail, postage prepaid, all on this 28th day of August, 1974.


Attorney for Plaintiffs

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2,668,057	3,091,869	3,588,108
2,957,695	3,143,811	3,599,221
3,315,962	3,145,378	3,582,544
3,582,077	3,191,317	2,188,145
157,258 (Sweden)	3,257,741	3,329,948
2,455,992	3,284,659	3,479,454
2,474,177	3,280,243	3,483,302
2,502,834	3,337,218	3,560,644
2,572,975	3,477,145	3,614,766
2,720,712	3,483,636	3,019,289
2,838,850	3,500,024	3,404,222
2,843,381	3,512,037	2,978,540
2,847,661	3,515,802	3,617,630
2,881,356	3,526,972	3,604,849
2,900,632	3,549,147	2,938,949
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